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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,966	12/09/2003	Jong Sin Kang	967.43327X00	2195

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EXAMINER
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LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/729,966

Applicant(s)

KANG, JONG SIN

Examiner

Justin M. Larson

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 20 and 27. The drawings are further objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 18.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

dependent form, or rewrite the claim(s) in independent form. The limitation of claim 9 is already recited in claim 6, from which claim 9 depends.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michiko (JP 04-135507) in view of Walther (US 4,771,771 A).

Regarding claim 1, Michiko discloses a pack having a disaster mask, the pack comprising a body (1) made of a sack shape and having a front surface and a rear surface, a pair of shoulder straps (1a) attached to the front surface and at least one pocket (2) positioned at the rear surface for receiving trifling articles, and a mask (1b,4) overlapped over the front or rear surface of the body.

Michiko fails to disclose the disaster mask being a gas mask having a detachable filter and an auxiliary cap for covering a user's mouth and nose. Walther, however, also discloses a disaster mask for use in toxic environments and teaches that the mask has a filter (12) and auxiliary cap (3), the filter being detachable so that a user may replace the filter when it has been used to the point of ineffectiveness. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a filter and auxiliary cap on the mask of Michiko, as taught by Walther, so that the mask would protect the user in the presence of toxic gases.

Regarding claims 2 and 7, the mask of Michiko includes a lighting element (6).

Regarding claim 4, the pack of Michiko includes an auxiliary cover over the peephole (1b) of the mask, effectively satisfying the limitations of the claim.

Regarding claims 6 and 9, the claim combines the limitations of claims 1 and 4, which have already been shown to be unpatentable over the modified Michiko pack.

5. Claims 1, 2, 4, 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachar (US 2004/0088780 A1) in view of Walther.

Regarding claim 1, Bachar discloses a backpack having a gas mask (Figures 13a, 14), the backpack comprising a body (115) made of a sack shape and having a front surface and a rear surface, a pair of shoulder bearing straps (110a,b) attached to the front surface (Figure 5a) and at least one pocket (600a-e) positioned at the rear surface (Figure 7a) for receiving trifling articles, and a mask overlapped over the front or rear surface of the body and having a filter (1115) and an auxiliary cap (Figure 14) for separately enclosing and sealing surroundings of a mouth and nose, but fails the filter being detachable. Regarding the mask overlapping the front or rear surface of the body, the mask is held in one of the pockets on the rear surface of the body [0098], and the fact that the mask is held in one of these pockets means the mask is held over or is overlapping the rear surface of the backpack body to which the pocket is attached.

Bachar fails to disclose the filter being detachable. Walther, however, also discloses a gas mask with a filter (12) and auxiliary cap (3) and teaches that the filter may be detachable so that a user may replace the filter when it has been used to the point of ineffectiveness. It would have been obvious to one having ordinary skill in the

art at the time the invention was made to make the filter of Bachar detachable, as taught by Walther, so that a user could easily replace the filter when it stopped working.

Regarding claims 2 and 7, the mask of Bachar may include a lighting element (1355).

Regarding claim 4, the pockets of Bachar are shown to have flaps, as is common with most pockets, that close the pocket until a user opens the flap to access the interior of the pocket. Looking at Applicant's drawings, the claimed auxiliary flap is shown to open a portion of the backpack to expose the mask rather than opening/closing the mask itself as claimed. Therefore, Examiner is considering the pocket flaps of Bachar to be equivalent to the claimed auxiliary cover since these pocket flaps also open a portion of the backpack to expose the mask.

Regarding claims 6 and 9, the claim combines the limitations of claims 1 and 4, which have already been shown to be unpatentable over the modified Bachar pack.

6. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachar and Walther as applied above in view of Ducros (US 5,400,934 A).

The modified Bachar pack/mask includes the claimed features except for a portable oxygen container connected to the auxiliary cap via a hose for supplying oxygen to the wearer. Bachar does teach that a drinking supply (1310) can be connected to the auxiliary cap via a hose (1355) so that a user may drink fluid while wearing the mask.

Similarly, Ducros discloses a backpack (1) having a drinking supply (2) with a drink tube (7) and teaches that the drinking system may be replaced with a gas mask

(20) and an oxygen supply container (19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the drinking supply of the modified Bachar pack/mask with an oxygen supply, as taught by Ducros, so that a user could have access to oxygen when the air around them was not suitable for breathing.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Bachar and Walther or Michiko and Walther as applied above in view of Klamm (US 2002/0179653 A1).

The modified Bachar and Michiko packs/masks include the claimed features except for a reflective tripod display on an inner side of the auxiliary cover. Klamm, however, teaches that it is known in the art to provide a retroreflective material on just about any portion of a backpack, including an outside panel, pocket, flaps, shoulder straps, etc. [0027], so that the pack is more visible in the dark to indicate the user's position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a retroreflective material on the flaps of the modified Bachar or Michiko packs, as taught by Klamm, so that the packs had reflective properties to indicate the user's position in the dark. Regarding this material being on an inner side of the flap, since little to no structure of the flap has been set forth, any surface of the flap can be considered the inner side. Regarding the reflective display being a tripod display, Examiner takes the position that it would have been an obvious matter of design choice to form the reflective display in a tripod or triangular fashion,

since such a modification would have involved a mere change in shape of an already existing component.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The art made of record includes various pack/gas mask combinations, as well as gas masks in general.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a



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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML  
8/25/06

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER